

January 28, 1999



OFFICE OF THE
ATTORNEY GENERAL
STATE OF TEXAS

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JOHN CORNYN
Attorney General

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P.O. Box 12548
Austin, Texas
78711-2548

(512) 463-2100
www.oag.state.tx.us

Mr. Mike Atkins
McMahon, Tidwell, Hansen, Atkins & Peacock, P.C.
Attorneys at Law
P.O. Box 1311
Odessa, Texas 79760

OR99-0259

Dear Mr. Atkins:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 121731.

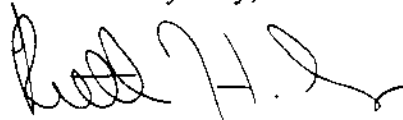
The Ector County Independent School District (the "district"), which you represent, received an open records request "to listen to the audio tape of the closed meeting with the school board on January 20, 1998." You note in your letter to this office that the referenced audio tape is the same taping recording this office held to be confidential under the Texas Open Meetings Act. *See* Gov't Code § 551.146. You further note that both the requestor, who is an attorney, and his client, who is the parent of the student who was the subject of the closed meeting, were present at the referenced meeting. You inquire whether the fact that the requestor now seeks only to listen to the recording, as opposing to requesting a copy, requires a different result from our previous determination that the district must release the certified agenda to the requestor "only under court order." Open Records Letter No. 98-1068 at 2 (1998).

In Attorney General Opinion DM-227 (1993), this office concluded that neither the Open Meetings Act nor the Open Records Act precludes a governmental body from releasing to a member of the governmental body the certified agenda or tape recording of a closed meeting in which the member participated. *See also* Letter Opinion No. 98-033 (1998). That opinion, however, is inapplicable in this instance because neither the requestor nor his client is a member of the district's governing board. Because allowing the requestor to listen to the tape recording would constitute a release of the information, our conclusion here is the same as that in

Open Records Letter No. 98-1068: the district may not release the tape recording of the executive session to the requestor absent a court order requiring it to do so.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Ruth H. Soucy', with a stylized flourish at the end.

Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/RWP/ch

Ref.: ID# 121731

cc: Mr. Lonnie Hobbs
6010 Highway 191, Suite 100
Odessa, Texas 79762